IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL REVISION APPLICATION NO. 36 OF 2005

Pradip Manohar Malkar & ors. Applicants

Vs.

Madhukar Ramchandra Malkar & ors. Respondents

Mr.G.S.Godbole for applicants.

CORAM: B.H.MARLAPALLE,J.

June 08, 2005.

P.C.:

1. Heard the learned counsel for the applicants. Special Civil Suit No.632 of 1994 came to be decreed in terms of compromise on 17/8/1995 and as the compromise was not acted upon over a period of three years by the judgment debtors, the decree holders filed final Decree Application No.3 of 1999 on 7/1/1999 before the learned Civil Judge Senior Division, Kolhapur under Order XX of C.P.C. An application at Exhibit 71 was taken out by the present applicants for dismissal of the Final Decree Application and by the impugned order the said application came to be rejected by the learned 2nd Jt.Civil Judge Senior Division, Kolhapur.

2. The averments made in the application registered as Final Decree Application No.3 of 1999 clearly indicate that the judgment debtors did not take any steps to comply with the compromise decree in its letter and spirit and the construction undertaken remained incomplete as well as it was not as per the approved plans. The said allegations require an enquiry by the Court below more so when over a

period of more than three years the judgment debtors did not take steps to complete the construction. Hence, there is no merit in the challenge raised to the impugned order.

3. The Civil Revision Application is rejected summarily.

(B.H.MARLAPALLE,J.)